

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:18-cv-11227-PKC-DCF**

Natural Resources Defense Council et al v. United States
Environmental Protection Agency
Assigned to: Judge P. Kevin Castel
Referred to: Magistrate Judge Debra C. Freeman
Cause: 05:552 Freedom of Information Act

Date Filed: 12/03/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**Natural Resources Defense Council**

represented by **Peter Daniel Huffman**
Natural Resources Defense Council
1152 15th Street NW
Ste 300
Washington, DC 20005
202-705-3135
Email: phuffman@nrdc.org
ATTORNEY TO BE NOTICED

Plaintiff**Environmental Defense Fund**

represented by **Matthew Littleton**
Donahue, Goldberg & Weaver, LLP
1008 Pennsylvania Ave SE
Washington, DC 20003
202-683-6895
Email: matt@donahuegoldberg.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Erin Murphy
Environmental Defense Fund
1875 Connecticut Ave NW, Suite 600
Washington, DC 20009
202-572-3525
Email: emurphy@edf.org
ATTORNEY TO BE NOTICED

V.

Defendant**United States Environmental
Protection Agency**

represented by **Samuel Hilliard Dolinger**
U.S. Attorney's Office, SDNY
86 Chambers Street, 3rd Floor
New York, NY 10007
(212) 637-2677
Email: samuel.dolinger@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/03/2018	<u>1</u>	COMPLAINT against United States Environmental Protection Agency. (Filing Fee \$ 400.00, Receipt Number ANYSDC-15994770) Document filed by Natural Resources Defense Council, Environmental Defense Fund. (Attachments: # <u>1</u> Exhibit Exhibit A – FOIA Request to EPA dated 2018.07.25, # <u>2</u> Exhibit Exhibit B – EPA letter dated 2018.08.21, # <u>3</u> Exhibit Exhibit C – Letter to EPA dated 2018.09.20)(Huffman, Peter) (Entered: 12/03/2018)

12/03/2018	<u>2</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to United States Environmental Protection Agency, re: <u>1</u> Complaint,. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Huffman, Peter) Modified on 12/4/2018 (pne). (Entered: 12/03/2018)
12/03/2018	<u>3</u>	CIVIL COVER SHEET filed. (Huffman, Peter) (Entered: 12/03/2018)
12/03/2018	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Environmental Defense Fund, Natural Resources Defense Council.(Huffman, Peter) (Entered: 12/03/2018)
12/03/2018	<u>5</u>	MOTION for Erin Murphy to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–15994995. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Environmental Defense Fund. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order for Admission Pro Hac Vice, # <u>2</u> Affidavit Affidavit in Support of Motion for Pro Hac Admission, # <u>3</u> Certificate of Good Standing)(Murphy, Erin) (Entered: 12/03/2018)
12/04/2018		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>5</u> MOTION for Erin Murphy to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–15994995. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (ma) (Entered: 12/04/2018)
12/04/2018		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Robert W. Sweet. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pne) (Entered: 12/04/2018)
12/04/2018		Magistrate Judge Debra C. Freeman is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pne) (Entered: 12/04/2018)
12/04/2018		Case Designated ECF. (pne) (Entered: 12/04/2018)
12/04/2018		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Peter Daniel Huffman to RE–FILE Document No. <u>2</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): caption entered on summons requests does not match pleading caption; defendant name error; do not use abbreviations. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (pne) (Entered: 12/04/2018)
12/04/2018	<u>6</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Environmental Protection Agency, re: <u>1</u> Complaint,. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Huffman, Peter) (Entered: 12/04/2018)
12/04/2018	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to United States Environmental Protection Agency. (pne) (Entered: 12/04/2018)
12/17/2018	<u>8</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>5</u> Motion for Erin Murphy to Appear Pro Hac Vice. (Signed by Judge Robert W. Sweet on 12/13/2018) (rro) (Entered: 12/17/2018)
12/27/2018	<u>18</u>	STANDING ORDER M10–468: The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/2018) (jca) (Entered: 01/02/2019)
12/27/2018	<u>20</u>	STANDING ORDER M10–468: The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further

		set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/2018) (ne) (Entered: 01/07/2019)
12/27/2018		Case Stayed (ne) (Entered: 01/23/2019)
12/28/2018	<u>9</u>	NOTICE OF APPEARANCE by Samuel Hilliard Dolinger on behalf of United States Environmental Protection Agency. (Dolinger, Samuel) (Entered: 12/28/2018)
12/28/2018	<u>10</u>	LETTER MOTION to Stay <i>the case and to toll deadlines pending lapse in appropriations</i> addressed to Judge Robert W. Sweet from Samuel Dolinger dated 12/28/2018. Document filed by United States Environmental Protection Agency. (Attachments: # <u>1</u> Exhibit A – Standing Order)(Dolinger, Samuel) (Entered: 12/28/2018)
12/28/2018	<u>11</u>	LETTER addressed to Judge Robert W. Sweet from Samuel Dolinger dated 12/28/2018 re: correction to initial letter dated December 28, 2018. Document filed by United States Environmental Protection Agency.(Dolinger, Samuel) (Entered: 12/28/2018)
12/28/2018	<u>12</u>	MOTION to Expedite ., MOTION for Partial Summary Judgment .(Responses due by 1/11/2019) Document filed by Environmental Defense Fund, Natural Resources Defense Council. Return Date set for 1/16/2019 at 12:00 PM.(Huffman, Peter) (Entered: 12/28/2018)
12/28/2018	<u>13</u>	MEMORANDUM OF LAW in Support re: <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Huffman, Peter) (Entered: 12/28/2018)
12/28/2018	<u>14</u>	NOTICE of Rule 56.1 Statement re: <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment .. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Huffman, Peter) (Entered: 12/28/2018)
12/28/2018	<u>15</u>	DECLARATION of Peter Huffman in Support re: <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment .. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Attachments: # <u>1</u> Exhibit March 2018 Letter to EPA, # <u>2</u> Exhibit FOIA Submission Receipt, # <u>3</u> Exhibit EPA OMEGA Webpage, # <u>4</u> Exhibit OIRA Agenda Webpage, # <u>5</u> Exhibit OIRA Agenda – EPA Timetable)(Huffman, Peter) (Entered: 12/28/2018)
12/28/2018	<u>16</u>	LETTER addressed to Judge Robert W. Sweet from Plaintiffs dated 12/28/2018 re: Motion to Expedite. Document filed by Environmental Defense Fund, Natural Resources Defense Council.(Huffman, Peter) (Entered: 12/28/2018)
12/31/2018	<u>17</u>	AFFIDAVIT OF SERVICE. United States Environmental Protection Agency served on 12/10/2018. Service was made by MAIL. Document filed by Natural Resources Defense Council; Environmental Defense Fund. (Attachments: # <u>1</u> Exhibit A – Service Receipt (EPA), # <u>2</u> Exhibit B – Service Receipt (AG), # <u>3</u> Exhibit C – Service Receipt (USAO))(Huffman, Peter) (Entered: 12/31/2018)
01/03/2019	<u>19</u>	ORDER granting <u>10</u> Letter Motion to Stay. The stay is granted. Upon the funding of the defendant and it's counsel, the parties will meet and confer on the schedule for resolution of all pending matters. So ordered. (Signed by Judge Robert W. Sweet on 1/3/2019) (rro) (Entered: 01/03/2019)
01/30/2019	<u>21</u>	PROPOSED SCHEDULING ORDER. Document filed by Natural Resources Defense Council. (Huffman, Peter) (Entered: 01/30/2019)
02/06/2019	<u>22</u>	STIPULATION AND SCHEDULING ORDER: NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties, and subject to approval of the Court, that the following schedule applies to pending matters in this action: Oral argument 2/20/2019. United States Environmental Protection Agency answer due 2/13/2019.(Responses due by 2/11/2019, Replies due by 2/15/2019.). So Ordered. (Signed by Judge Robert W. Sweet on 2/5/2019) (js) (Entered: 02/06/2019)
02/06/2019	<u>23</u>	MOTION to Amend/Correct <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . Document filed by Environmental Defense Fund, Natural Resources Defense Council. Return Date set for 2/20/2019 at 12:00 PM.(Huffman, Peter) (Entered: 02/06/2019)

02/11/2019	<u>24</u>	MEMORANDUM OF LAW in Opposition re: <u>23</u> MOTION to Amend/Correct <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . , <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . Document filed by United States Environmental Protection Agency. (Dolinger, Samuel) (Entered: 02/11/2019)
02/11/2019	<u>25</u>	DECLARATION of Jonathan Lubetsky in Opposition re: <u>23</u> MOTION to Amend/Correct <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . , <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . Document filed by United States Environmental Protection Agency. (Dolinger, Samuel) (Entered: 02/11/2019)
02/13/2019	<u>26</u>	ANSWER to <u>1</u> Complaint,. Document filed by United States Environmental Protection Agency.(Dolinger, Samuel) (Entered: 02/13/2019)
02/15/2019	<u>27</u>	REPLY MEMORANDUM OF LAW in Support re: <u>23</u> MOTION to Amend/Correct <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . , <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Huffman, Peter) (Entered: 02/15/2019)
02/15/2019	<u>28</u>	DECLARATION of Peter Huffman in Support re: <u>23</u> MOTION to Amend/Correct <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . , <u>12</u> MOTION to Expedite . MOTION for Partial Summary Judgment . . Document filed by Natural Resources Defense Council. (Attachments: # <u>1</u> Exhibit A – Email Receipt re Expedited Processing)(Huffman, Peter) (Entered: 02/15/2019)
02/22/2019	<u>29</u>	LETTER addressed to Judge Robert W. Sweet from Samuel Dolinger dated 2/22/2019 re: correction to EPA's opposition brief, Dkt. No. 24. Document filed by United States Environmental Protection Agency.(Dolinger, Samuel) (Entered: 02/22/2019)
03/05/2019	<u>30</u>	LETTER addressed to Judge Robert W. Sweet from Samuel Dolinger dated 3/5/2019 re: EPA's March 4, 2019, response to Plaintiffs' priority request; mootness of Plaintiffs' motion. Document filed by United States Environmental Protection Agency.(Dolinger, Samuel) (Entered: 03/05/2019)
03/07/2019	<u>31</u>	LETTER addressed to Judge Robert W. Sweet from Plaintiffs dated March 7, 2019 re: Pending Motion. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Attachments: # <u>1</u> Exhibit A – Partial FOIA response)(Huffman, Peter) (Entered: 03/07/2019)
03/11/2019	<u>32</u>	LETTER addressed to Judge Robert W. Sweet from Samuel Dolinger dated 3/11/2019 re: Response to Plaintiffs' letter dated March 7, 2019; request to stay EPA's deadline to respond to any motion challenging exemptions until EPA has responded to Plaintiffs' complete FOIA request. Document filed by United States Environmental Protection Agency.(Dolinger, Samuel) (Entered: 03/11/2019)
03/13/2019	<u>33</u>	LETTER addressed to Judge Robert W. Sweet from Plaintiffs dated March 13, 2019 re: Priority Records. Document filed by Environmental Defense Fund, Natural Resources Defense Council.(Huffman, Peter) (Entered: 03/13/2019)
03/19/2019	<u>34</u>	LETTER addressed to Judge Robert W. Sweet from Samuel Dolinger dated 3/19/2019 re: Response to Plaintiffs' letter dated March 13, 2019. Document filed by United States Environmental Protection Agency.(Dolinger, Samuel) (Entered: 03/19/2019)
03/27/2019	<u>35</u>	NOTICE OF APPEARANCE by Matthew Littleton on behalf of Environmental Defense Fund. (Littleton, Matthew) (Entered: 03/27/2019)
03/28/2019	<u>36</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non–dispositive pretrial motions, and settlement). Referred to Magistrate Judge Debra C. Freeman. (Signed by Judge Colleen McMahon on 3/27/2019) (ks) (Entered: 03/28/2019)
03/29/2019	<u>37</u>	STATUS REPORT. <i>JOINT</i> Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Attachments: # <u>1</u> Exhibit Excerpt from EPA's OMEGA website)(Littleton, Matthew) (Entered: 03/29/2019)

04/08/2019		NOTICE OF CASE REASSIGNMENT to Judge P. Kevin Castel. Judge Robert W. Sweet is no longer assigned to the case. (sjo) (Entered: 04/08/2019)
04/08/2019	<u>38</u>	MEMO ENDORSEMENT on re: <u>37</u> Status Report filed by Natural Resources Defense Council, Environmental Defense Fund. ENDORSEMENT: Proposed briefing schedule is approved. (Motions due by 4/8/2019. Cross Motions due by 5/3/2019. Responses due by 5/13/2019. Replies due by 5/23/2019.) (Signed by Judge P. Kevin Castel on 4/8/2019) (jwh) (Entered: 04/08/2019)
04/08/2019	<u>39</u>	MOTION for Summary Judgment .(Responses due by 5/3/2019), MOTION to Expedite . Document filed by Environmental Defense Fund, Natural Resources Defense Council.(Littleton, Matthew) (Entered: 04/08/2019)
04/08/2019	<u>40</u>	MEMORANDUM OF LAW in Support re: <u>39</u> MOTION for Summary Judgment . MOTION to Expedite . . Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Attachments: # <u>1</u> Exhibit A --- EPA OMEGA webpage, # <u>2</u> Exhibit B --- EPA OMEGA schematic, # <u>3</u> Exhibit C --- 04/01/19 EPA letter to Plaintiffs, # <u>4</u> Exhibit D --- 03/04/19 EPA letter to Plaintiffs, # <u>5</u> Exhibit E --- 03/20/18 EDF letter to EPA, # <u>6</u> Exhibit F --- Plaintiffs' FOIA request, # <u>7</u> Exhibit G --- 08/21/18 EPA letter to Plaintiffs, # <u>8</u> Exhibit H --- 09/20/18 EDF letter to EPA, # <u>9</u> Exhibit I --- 09/11/18 CARB letter to EPA, # <u>10</u> Exhibit J --- 10/23/18 EPA letter to CARB, # <u>11</u> Exhibit K --- EPA OMEGA v.1.4.56 core model excerpt, # <u>12</u> Exhibit L --- 04/05/19 Reuters article)(Littleton, Matthew) (Entered: 04/08/2019)
04/08/2019	<u>41</u>	DECLARATION of Peter Huffman in Support re: <u>39</u> MOTION for Summary Judgment . MOTION to Expedite .. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Littleton, Matthew) (Entered: 04/08/2019)
04/08/2019	<u>42</u>	DECLARATION of Margo Oge in Support re: <u>39</u> MOTION for Summary Judgment . MOTION to Expedite .. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Littleton, Matthew) (Entered: 04/08/2019)
04/08/2019	<u>43</u>	DECLARATION of Dr. Nicholas Lutsey in Support re: <u>39</u> MOTION for Summary Judgment . MOTION to Expedite .. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Attachments: # <u>1</u> Exhibit List of publications, # <u>2</u> Exhibit Excerpt from Apr. 2018 EPA presentation to OMB)(Littleton, Matthew) (Entered: 04/08/2019)
04/08/2019	<u>44</u>	PROPOSED ORDER. Document filed by Environmental Defense Fund, Natural Resources Defense Council. Related Document Number: <u>39</u> . (Littleton, Matthew) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 04/08/2019)
04/08/2019	<u>45</u>	AFFIRMATION of Peter Huffman in Support re: <u>39</u> MOTION for Summary Judgment . MOTION to Expedite .. Document filed by Environmental Defense Fund, Natural Resources Defense Council. (Littleton, Matthew) (Entered: 04/08/2019)